UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

KEITH SHORT and FAIR HOUSING JUSTICE CENTER, INC.,

Plaintiffs,

- against -

MANHATTAN APARTMENTS, INC., ABBA REALTY ASSOCIATES, INC., SONI REALTY LLC, KIMBERLY PLACE REALTY CORP., and SAEED M. ASKARINAM d/b/a ASKARINAM REALTY,

Defendants.

11 Civ. 05989 (KMW)

PLAINTIFFS' PRETRIAL SUBMISSIONS

Plaintiffs by their attorneys, Emery Celli Brinckerhoff & Abady, LLP and Housing Works Inc. make the following pretrial submissions pursuant to the Court's trial preparation order:.

I. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plaintiffs' Proposed Findings of Fact and Conclusions of Law, including Plaintiffs' Proposed Injunction are enclosed as Attachment A.

II. TRIAL BRIEF

Plaintiffs are not submitting a trial brief.

III. EXHIBIT LIST

Plaintiffs' Exhibit List is attached as Attachment B.

IV. WITNESS LIST

Plaintiffs expect to call the witnesses listed below to testify at trial in the following order:

1. Catherine Bowman

Ms. Bowman will testify about what services are provided by the HIV/AIDS Services Administration ("HASA"), including a rental housing subsidy; the criteria for becoming eligible to receive HASA services and subsidies; and the procedures for using a HASA housing subsidy. Ms. Bowman's direct examination is estimated to last thirty (30) minutes and her cross examination is expected to last thirty (30) minutes.

2. Fred Freiberg

Mr. Freiberg will testify about the testing investigation conducted by the Fair Housing Justice Center ("FHJC) in response to Mr. Short's housing discrimination complaints. Mr. Freiberg will testify about the training procedures for FHJC testers and FHJC's testing protocols and process. Mr. Freiberg will also testify about the factual basis for FHJC's request for compensatory damages and injunctive relief. Mr. Freiberg's direct examination is estimated to last one (1) hour and his cross examination is expected to last one (1) hour.

3. Amanda Boekelheide

Ms. Boekelheide will testify about the testing she conducted of the Defendants as an FHJC tester. Ms. Boekelheide's direct examination is estimated to last thirty (30) minutes and her cross examination is expected to last fifteen (15) minutes.

4. Brian Hickey

Mr. Hickey will testify about the test he conducted of Manhattan Apartments as an FHJC tester. Mr. Hickey's direct examination is estimated to last forty-five (45) minutes and his cross examination is expected to last fifteen (15) minutes.

5. Susan Burns

Ms. Burns will testify about the tests she conducted of the Defendants as an FHJC tester.

Ms. Burns direct examination is estimated to last one 1 hour and her cross examination is expected to last thirty (30) minutes.

6. Dan Burkarth

Mr. Burkarth will testify about the test he conducted of Abba Realty as an FHJC tester.

Mr. Burkarth's direct examination is estimated to last forty-five (45) minutes and his cross examination is expected to last fifteen (15) minutes.

7. Robert Salsberry

Plaintiffs intend to call Mr. Salsberry as an adverse witness. Mr. Salsberry will testify about his work as a real estate sales person at Manhattan Apartments. Mr. Salsberry's adverse direct examination is estimated to last thirty (30) minutes. Plaintiffs do not know if Defendant Manhattan Apartments intends to question Mr. Salsberry.

8. Juanita Garcia-Meadows

Plaintiffs intend to call Ms. Garcia-Meadows as an adverse witness. Ms. Garcia-Meadows will testify about her work as a real estate sales person at Manhattan Apartments. Ms. Garcia-Meadows' direct examination is estimated to last thirty (30) minutes. Plaintiffs do not know if Defendant Manhattan Apartments intends to question Ms. Garcia-Meadows.

9. Mercedeh Rofeim

Plaintiffs intend to call Ms. Rofeim as an adverse witness. Ms. Rofeim will testify about her work as an Abba Realty employee. Ms. Rofeim's direct examination is estimated to last

thirty (30) minutes. Plaintiffs do not know if Defendant Abba Realty intends to question Ms. Rofeim.

10. Keith Short

Mr. Short will testify about his search for an apartment to rent in 2010 and 2011; his contacts with the Defendants during his housing search; and the damages he has sustained as a result of the Defendants' discrimination. Mr. Short's direct examination is estimated to last forty-five (45) minutes and his cross examination is expected to last thirty (30) minutes.

V. DESIGNATION OF EXCERPTS TO BE OFFERED AT TRIAL

Plaintiffs intend to offer the following excerpts at trial for purposes other than impeachment or rebuttal:

<u>Answers</u>

1. Answer of Abba Realty Associates, Inc. ("Abba"), dated October 28, 2011, at 3, ¶¶ 38, 39.

Stipulations

- 1. Joint Pretrial Order, dated June 22, 2012, Stipulation Nos. 1-47.
- 2. Stipulation Regarding Certain Pre-Trial Matters, dated October 5, 2012. See Attachment C.

Depositions

1. Plaintiffs respectfully reserve the right to offer any relevant and probative excerpts from the 30(b)(6) depositions taken in this case, namely, the Transcript of the Deposition of Jerry Weinstein, dated March 15, 2012, and the Transcript of the Deposition of Sheina Levin, dated March 20, 2012.

- 2. Plaintiffs respectfully reserve the right to offer any relevant and probative excerpts from the depositions of Abba's agents and employees, taken on matters within the scope of their employment or agency while that relationship existed, namely, the Transcript of Deposition of Mercedeh Rofeim, dated March 8, 2012; the Transcript of the Deposition of Carmen Peña, dated March 8, 2012; and the Transcript of the Deposition of Yisroel Golowinsky, dated March 20, 2012.
- 3. Without waiving the rights reserved in Paragraphs 1-2, <u>supra</u>, Plaintiffs identify the following specific excerpts that they intend to offer at trial for purposes other than impeachment or rebuttal:
- A. <u>Jerry Weinstein</u>: Transcript of Deposition of Jerry Weinstein, MA Rule 30(b)(6) designated witness, dated March 15, 2012, at: 14, lines 2-5; 30, lines 11-17; 41, lines 17-20; 45, lines 3-14; 47, lines 5-20; 49, lines 8-18; 97, lines 11-25; 98, lines 2-25; 99, 10-25; 100, lines 2-8.
- B. <u>Sheina Levin</u>: Transcript of the Deposition of Sheina Levin, Abba Rule 30(b)(6) designated witness, dated March 20, 2012, at: 13, lines 15-25; 14, lines 2-22;16-17, lines 24-25 and 2-3; 23, lines 2-16; 26, lines 2-7; 58, lines 12-25 and 2-13; 66, lines 8-25; 85-86, lines 24-25 and 2-22.
- C. <u>Mercedeh Rofeim</u>: Transcript of Deposition of Mercedeh Rofeim, dated March 8, 2012, at: 27-30; 36-40; 66, lines 17-20; 68, lines 19-25; 69, line 2; 70, lines 17-21; 71, lines 13-15; 91, lines 14-17; 91, lines 14-20; 143-144; 145, lines 2-3; 146-47; 152, lines 14-25; 153, lines 2-9.
- D. <u>Yisroel Golowinsky</u>: Transcript of the Deposition of Yisroel Golowinksy, dated March 20, 2012, at: 20-23.

Dated: New York, New York October 5, 2012 EMERY CELLI BRINCKERHOFF & ABADY LLP

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